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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,331	03/23/2004	Scott Manchester	30835/306290	1761
45373 7590 11/25/2008 MARSHALL, GERSTEIN & BORUN LLP (MICROSOFT) 233 SOUTH WACKER DRIVE 6300 SEARS TOWER CHICAGO, IL 60606				
EXAMINER JEAN GILLES, JUDE				
ART UNIT 2443		PAPER NUMBER		
MAIL DATE 11/25/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/806,331

## Applicant(s)

MANCHESTER ET AL.

## Examiner

JUDE J. JEAN GILLES

## Art Unit

2443

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 12-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 12-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF-08)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This Office Action is in Reply to communication filed 08/14/2008.

#### ***Response to Election/Restriction***

1. In response to the Election/Restriction dated 07/18/2008, Applicants have replied with a Response to Election / Restriction Filed on 08/14/2008 in which applicants hereby elect, without traverse, independent claims 1, 12 and their dependencies, drawn to a computer-readable medium having stored XML file instance conforming to an XML schema for wireless or broadband modem device configuration with various network elements. Claims 1-4, and 12-14 are pending in this application.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-4, and 12-14** are rejected under 35 U.S.C. 102(e) as being anticipated by Erickson et al (Erickson), Patent No. 20030081791 A1.

Regarding **claim 1**, Erickson discloses:

1. A computer-readable medium having stored thereon an Extensible Markup Language (XML) file instance conforming to an XML schema for wireless device configuration (*fig.*

*2, and 4*), the schema comprising:

a network identifier element (*fig. 4, item 86; abstract; the public key is our network identifier element; see also item 202 of fig 8a*); and

a network encryption key element (*fig. 2 item 62; par. 0023; note that each message document contains a session key which has the encrypted data key element.*)

2. The schema of claim 1, further comprising:

a connection type element (*fig. 2; 0021*);

an authentication type element (*0003, 0029*);

an encryption type element (*par. 0023*);

a device mode indicator element (*fig. 8a-b, item 204; lines 15-23 of par 0028; see that the XML tags for the encryption type parameters attribute a name to each of them (name="param2", etc.); see limitation of claim 25, and the presence of the session and public keys* ).

3. The schema of claim 1, further comprising: a automatic key element for indicating whether a network key is provided automatically; an 802.1x element for indicating whether a device supports IEEE 802.1x protocol; and a frequency indicator element (*0023; figs 8 a-b; note the creating element indicating different aspect of the network for proper configuration is well anticipated as XML lets you define your own customized*

markup languages for limitless different classes of document with elements such as those).

4. The schema of claim 1, further comprising a time-to-live element for defining a time for which an instance of the schema is valid (0024).

5-11 (withdrawn)

12. A computer-readable medium having stored thereon an XML file instance conforming to an XML schema for broadband modem device configuration (*fig. 2, and 4*), the schema comprising:

a session instance identifier element (abstract, 0027);

a DHCP element for indicating whether DHCP is supported (see abstract; *figs 8 a-b*; and a link modulation element for indicating a type of broadband connection (0025; see for instance the message body element).

13. The schema of claim 12, further comprising: a user name element; and a password element (0023; see user name in password within the UserData module).

14. The schema of claim 12, further comprising an asynchronous transfer mode (ATM) encapsulation element for indicating a type of ATM encapsulation (*figs 8 a-b*).

15-20 (withdrawn)

***Conclusion***

4. ***This action is made Non-Final.*** Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger, can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3301.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-0800.

/Jude Jean-Gilles/

Patent Examiner

Art Unit 2143

JJG

November 21, 2008